

1
2
3
4 **UNITED STATES DISTRICT COURT**

5 **DISTRICT OF NEVADA**

6 UNITED STATES OF AMERICA,)

7 Plaintiff,)

8 vs.)

9 ORTENCIA SEGURA-SEGURA,)

10 Defendant.)

3:12-cr-00063-RCJ-VPC-1

ORDER

11
12 A grand jury indicted Defendant Ortencia Segura-Segura for one count of fraudulent use
13 of a social security number, 42 U.S.C. § 408(a)(7)(B), two counts of aggravated identity theft, 18
14 U.S.C. § 1028A, and one count of false statement in application for passport, 18 U.S.C. § 1542.
15 (*See* Indictment, June 27, 2012, ECF No. 1). Defendant was arrested in Reno, Nevada on July
16 10, 2012 and pled not guilty to all counts during her arraignment. (*See* Warrant, July 10, 2012,
17 ECF No. 5; Arraignment Mins., July 10, 2012, ECF No. 6). Defendant agreed to plead guilty to
18 count three pursuant to § 1542, but the Court rejected the plea and granted Defendant's oral
19 motion to dismiss the indictment for selective prosecution. (*See* Plea Agreement, Oct. 18, 2012,
20 ECF No. 20; Change of Plea Hr'g Mins., Oct. 23, 2012, ECF No. 21).

21 The Court noted during the plea colloquy that the charge under § 1542 would normally be
22 brought as a misdemeanor, not as a felony, as here, and that the Department of Justice had ceased
23 prosecuting illegal reentry cases as a general matter except for those defendants with a prior
24 criminal history. The United States noted that the present case had nothing to do with illegal
25 reentry but rather fraud and identity theft crimes that the Department of Justice was continuing to

1 prosecute against aliens and citizens alike, and that Defendant had a criminal history (petty
2 larceny) in any case. The Court rejected the plea for selective prosecution, noting that although
3 the crimes charged in the present case were different from illegal reentry, Defendant was in the
4 same position as an illegal reentry defendant with respect to her criminal culpability and the
5 nature and gravity of the crimes. The Court solicited a motion for dismissal from Defendant,
6 which Defendant made and the Court granted.

7 The United States has asked the Court to clarify its ruling and has appealed it in the
8 meantime. The United States has also asked the Court to extend the existing order of detention
9 pending appeal. Defendant has not timely objected to either of the United States' motions. First,
10 the United States notes that the minutes of the October 23, 2012 hearing indicate that Defendant
11 was remanded to custody and counsel for the defense was directed to submit a proposed order of
12 dismissal, indicating that dismissal was not to be effective unless and until the Court reviewed
13 Defendant's motion and signed it. However, the minutes also indicate that the Court granted the
14 motion. The Court clarifies that the signed minute order is a final, appealable order. Second, the
15 United States asks the Court to extend the existing order of detention pending appeal. The Court
16 denies the motion.

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

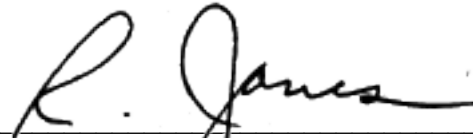
1 **CONCLUSION**

2 IT IS HEREBY ORDERED that the Motion for Clarification (ECF No. 24) is
3 GRANTED.

4 IT IS FURTHER ORDERED that the Motion to Extend Existing Order of Detention
5 Pending Appeal (ECF No. 27) is DENIED.

6 IT IS SO ORDERED.

7 Dated this 14th day of January, 2013.

8
9 
10 _____
11 ROBERT T. JONES
12 United States District Judge
13
14
15
16
17
18
19
20
21
22
23
24
25